

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSHUA HAWKINS,

v.

Petitioner,

STATE OF NEVADA, *et al.*,

Respondents.

Case No. 3:20-cv-00209-MMD-WGC

ORDER

On May 27, 2020, Petitioner filed, in this habeas corpus proceeding, a document styled as a “motion to amend petition to add to claim.” (ECF No. 9.) As in his initial petition, Petitioner alleges in this filing that the state has violated his constitutional rights by improperly depriving him of credit for time served. He asserts that he is entitled to money damages for the “extra time in which he was confined.” (*Id.* at 2.)

Under Rule 15(a), a party may amend his or her pleadings once as a matter of course at any time before a responsive pleading is served. Fed. R. Civ. P. 15(a). In addition, Respondents have not filed an opposition to Petitioner's motion. Even so, Petitioner's claim for money damages is not available in a habeas corpus proceeding. See *Preiser v. Rodriguez*, 411 U.S. 475, 493 (1973). So, as drafted, Petitioner's amended claim is not cognizable in this action. For that reason, the Court must deny his motion.

However, because of provisions governing second or successive petitions, it is important that Petitioner include all his available habeas claims in his pending petition. See 28 U.S.C. § 2244(b). Accordingly, the Court will permit Petitioner the opportunity to file an amended petition, in the event he wants to raise claims aside from his proposed claim seeking money damages.

111

1 It is therefore ordered that Petitioner's "motion to amend petition to add to claim."
2 (ECF No. 9) is denied. Petitioner may, however, file an amended petition asserting
3 additional habeas claims if he so chooses. Petitioner will have 30 days from the date this
4 order is entered within which to file an amended petition including all available claims.

5 It is further ordered that Respondents will have 60 days from the date Petitioner
6 files an amended petition to answer or otherwise respond to the amended petition. If
7 Petitioner does not file an amended petition within the time allotted, Respondents will
8 have 60 days from the date this order is entered to answer or otherwise respond to
9 Petitioner's current petition (ECF No. 6).

10 It is further ordered that the Clerk of the Court send Petitioner a noncapital Section
11 2254 habeas petition form, one copy of the instructions for the form, and a copy of his
12 initial habeas petition (ECF No. 6).

13 It is further ordered that Respondents' motion to extend time (ECF No. 10) is
14 denied as moot.

15 DATED THIS 7th day of July 2020.

16 
17

18 MIRANDA M. DU
19 CHIEF UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28